

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

NANCY GOODMAN, et al.,

Plaintiffs,

vs.

Civil Action 2:14-cv-414
Judge Frost
Magistrate Judge King

J.P.MORGAN INVESTMENT
MANAGEMENT, INC.,

Defendant.

OPINION AND ORDER

Plaintiffs seek recovery on behalf of three investment funds pursuant to § 36(b) of the Investment Company Act of 1940, 15 U.S.C. § 80a-35(b). Specifically, plaintiffs allege that defendant acted in breach of its fiduciary duty by charging investment advisory fees disproportionate to the services provided and in excess of fees negotiated at arm's length for such services. The Court issued a preliminary pretrial order on August 6, 2014, requiring, *inter alia*, that plaintiffs provide defense counsel quarterly statements of attorney fees and expenses incurred to date. *Preliminary Pretrial Order*, ECF 21. This matter now before the Court for consideration of plaintiffs' motion for relief from that requirement. *Plaintiffs' Motion*, ECF 27.

Plaintiffs argue that disclosure of attorneys' fees to defendant during the pendency of this litigation is unnecessary in this case. *See Plaintiffs' Motion*, p. 2. Plaintiffs specifically argue that "Section 36(b) of the ICA, which is the provision pursuant to which

Plaintiffs seek relief, does not contain a provision for fee-shifting" and that, "if Plaintiffs obtain a judgment on behalf of the relevant mutual funds, Plaintiffs' attorneys will be entitled to a fee based on the equitable common fund/common benefit doctrine." *Id.*

Defendant opposes *Plaintiffs' Motion*, arguing that plaintiffs are not entitled to attorneys' fees, but nevertheless asserting an interest in minimizing any award of attorney's fees in this case. *Defendant's Response*, ECF 35, p. 4.

Having considered the contentions of the parties, the Court concludes that its discretion is better exercised by relieving plaintiffs of the requirement of providing defendant quarterly statements of attorney fees.

Accordingly, *Plaintiffs' Motion*, ECF 27, is **GRANTED**.

October 27, 2014

s/Norah McCann King
Norah M^cCann King
United States Magistrate Judge